

GARY L. PRYOR
DIRECTOR



County of San Diego

DEPARTMENT OF PLANNING AND LAND USE

5201 RUFFIN ROAD, SUITE B, SAN DIEGO, CALIFORNIA 92123-1666
INFORMATION (858) 694-2960
TOLL FREE (800) 411-0017

SAN MARCOS OFFICE
338 VIA VERA CRUZ - SUITE 201
SAN MARCOS, CA 92069-2620
(760) 471-0730

EL CAJON OFFICE
200 EAST MAIN ST. - SIXTH FLOOR
EL CAJON, CA 92020-3912
(619) 441-4030

March 25, 2005

Andy Goodman
2509 Huntington Lane
Redondo Beach, California 90278

Dear Mr. Goodman:

We are informed that you are investigating whether to purchase a fee parcel within the Pala Reservation boundaries, APN 110-100-12. Pursuant to your recent request to the "Zoning Administrator", we offer the following in response to your question whether the County has jurisdiction over land uses and structures on a fee parcel within the exterior boundaries of an Indian Reservation.

In general, Indian tribes retain inherent sovereign power to exercise some forms of civil jurisdiction over non-Indians on their reservation, even on non-Indian fee lands. A tribe may regulate, through taxation, licensing, or other means, the activities of non-members who enter consensual relationships with the tribe or its members, through commercial dealing, contracts, leases, or other arrangements. A tribe may also retain power to exercise civil authority over the conduct of non-Indians on fee lands within its reservation when that conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe. Atkinson Trading Co. v. Shirley, 532 U.S. 645 (2001). The dependent status of Indian tribes has implicitly divested them of power to regulate, in general, the conduct of non-members on land no longer owned by, or held in trust for the tribes, however, tribes have retained the power to impose certain kinds of regulations on the activities of a non-member on fee lands within their reservations. Indian tribes retain inherent sovereign power to exercise some forms of civil jurisdiction over non-Indians on their reservations, even on non-Indian fee lands. Cardin v. De La Cruz, 671 F.2d 363, (1982).

While there have not been any recent cases deciding the issue whether the tribe possesses the authority to zone non-Indian fee land within a reservation, the case of Brendale v. Confederated Bands and Tribes of Yakima Indian Nation, 492 US 408 (1989) dealt with the issue of a local jurisdiction attempting to exercise zoning authority over non-Indian fee lands within the boundaries of a reservation. In that case, in a

Mr. Goodman

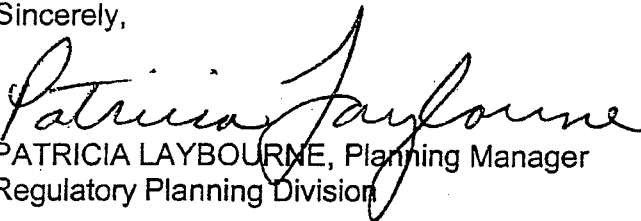
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divided opinion, the Supreme Court held that in general, tribes retained the right to zone fee land within the boundaries of the reservation, but that in very limited circumstances where a large percentage of land within a reservation was held in fee by non-Indians, a local agency may exercise zoning jurisdiction. To our knowledge, such circumstances are not present on the Pala Indian Reservation. Thus, it is likely that a court would find that the zoning of all lands within the reservation is the exclusive jurisdiction of the Tribe, as the regulation of activities on the reservation would effect the political integrity, the economic security, or the health or welfare of the tribe.

Further the County Zoning Ordinance Section 1006 states "The County Zoning Ordinance shall not apply to Indian Reservation lands within the County of San Diego. Such lands are defined as those parcels which are identified as Indian Reservation lands by an Act of the United States Congress." Based on this section, and the references above, the County does not have land use jurisdiction over the subject parcel of land.

Sincerely,


PATRICIA LAYBOURNE, Planning Manager
Regulatory Planning Division

PL:jcr

cc: Chantal Saïpe, Tribal Liaison, County of San Diego, M.S. A6
Claudia Anzures, Senior Deputy County Counsel, M.S. A12

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